

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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DK ACQUISITION PARTNERS, L.P., :
KENSINGTON INTERNATIONAL LIMITED, :
RUSHMORE CAPITAL-I, L.L.C., RUSHMORE :
CAPITAL-II, L.L.C., and SPRINGFIELD :
ASSOCIATES, LLC., :
: Plaintiffs, :
: :
v. : : Civil Action No. 08 Civ. 0446 (LTS)
: :
JPMORGAN CHASE & CO., JPMORGAN :
CHASE BANK, J.P. MORGAN SECURITIES, :
INC., CITIGROUP INC., CITIBANK, N.A. and :
CITIGROUP GLOBAL MARKETS, INC. f/k/a :
Salomon Smith Barney, :
: Defendants. : X

(Caption continued on next page)

AVENUE CAPITAL MANAGEMENT II, L.P.,	:	X
GRACIE CAPITAL, L.P., HALCYON FUND,	:	
L.P., KING STREET CAPITAL, L.P.,	:	
LONGACRE MASTER FUND, LTD., MAN MAC	:	
3 LIMITED, ORE HILL FUND HUB LTD.,	:	
MARATHON SPECIAL OPPORTUNITY	:	
MASTER FUND, LTD., RCG CARPATHIA	:	
MASTER FUND, LTD., REDWOOD MASTER	:	
FUND, LTD., SCOGGIN CAPITAL	:	
MANAGEMENT, L.P. II, SCOGGIN	:	
INTERNATIONAL FUND, LTD., SCOTWOOD	:	
CAPITAL MANAGEMENT, LLC, SPCP GROUP,	:	
LLC, STRATEGIC VALUE CREDIT	:	
OPPORTUNITIES MASTER FUND, L.P.,	:	
STRATEGIC VALUE MASTER FUND, LTD.,	:	
and TRILOGY CAPITAL, LLC,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
JPMORGAN CHASE & CO., JPMORGAN	:	
CHASE BANK, J.P. MORGAN SECURITIES,	:	
INC., CITIGROUP INC., CITIBANK, N.A., and	:	
CITIGROUP GLOBAL MARKETS, INC. f/k/a	:	
Salomon Smith Barney,	:	
	:	
Defendants.	:	X

Civil Action No. 08 Civ. 0447 (LTS)

**NOTICE OF MOTION BY DEFENDANTS FOR
SUMMARY JUDGMENT BASED ON PLAINTIFFS' LACK OF
STANDING TO ASSERT CERTAIN CLAIMS ALLEGEDLY ACQUIRED
FROM THIRD PARTIES**

PLEASE TAKE NOTICE that, upon the affidavit of Alan C. Turner, sworn on the 11th day of July, 2008, and the exhibits attached thereto, and the accompanying Memorandum of Law, Defendants JPMorgan Chase & Co., JPMorgan Chase Bank, N.A., and J.P. Morgan Securities, Inc. (the "JPMorgan Chase Defendants") and Citigroup Inc., Citibank, N.A., and Citigroup Global Markets, Inc., f/k/a Salomon Smith Barney Inc. (the "Citigroup Defendants,"

and together with the JPMorgan Chase Defendants, the “Defendants”), will move this Court before the Honorable Laura T. Swain in Courtroom 17C of the United States Courthouse, 500 Pearl Street, New York, New York 10007, on a date to be determined, for an order pursuant to Rule 56 of the Federal Rules of Civil Procedure for summary judgment in favor of Defendants with respect to certain claims allegedly acquired by Plaintiffs from third parties.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to Local Rule 6.1(b), opposition papers, if any, shall be served within ten (10) business days after service of the papers herein, unless otherwise ordered by the Court.

Meet and Confer Certification: Counsel for Defendants hereby certify that, as described in greater detail below, they used their best efforts to resolve informally the matters raised in this motion. Defendants’ counsel notified Plaintiffs’ counsel in the parties’ joint Pre-Conference Statement dated April 26, 2008 (¶ 3.6) of their intention to move for summary judgment with respect to the standing of certain of the *DK Acquisition* plaintiffs and certain of the *Avenue Capital* plaintiffs to assert certain of the interests they claim to be asserting in these actions. The JPMorgan Chase Defendants’ counsel again wrote to Plaintiffs’ counsel on July 9, 2008 re-stating their intention to so move for summary judgment, stating the grounds therefor, and inviting Plaintiffs’ counsel to participate in a telephonic discussion regarding such motion. Counsel for Defendants provided, at Plaintiffs’ counsel’s request, additional information as to the matters the motion would address, but Plaintiffs’ counsel stated an unwillingness to meet and confer without Defendants’ provision of further information that, as the motion discusses, Defendants do not believe is their burden to provide.

Oral Argument Requested: Defendants respectfully request that this Court grant oral argument on their motion for summary judgment.

Dated: July 11, 2008

Respectfully submitted,



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